

**CITY’S RESPONSE TO PROPOSERS SUGGESTIONS  
FOR REQUEST FOR PROPOSALS  
FOR WESTERN ART AND HISTORY MUSEUM  
OPERATOR FOR TO-BE-BUILT MUSEUM  
DOWNTOWN SCOTTSDALE  
SCOTTSDALE, AZ**

Note: This Response to suggestions explains some of the City’s reasoning in publishing the First Addendum To Western Art and History Museum RFP. This Response is not an addendum and does not modify the RFP. If there is a conflict between this Response and the RFP (including its addenda) the RFP (including its addenda) shall control.

***Proposer Suggestion #1***

*The Proposer suggests that the City provide a definition of “modern” and “first class” to describe the expectation of the project. (page 1, 1.1) This will be a critical determinant as to whether or not the City will be able to design and build the museum within the constraints of its budget only.*

**City Response #1**

The City does not expect to design and build the museum with only public funds (which have been capped at \$7.5 million); it does expect the budget to exceed the City’s maximum contribution and the remaining required funding will be the responsibility of the Tenant. The City defines “modern” and “first class” as the *Characteristics of Excellence for U.S. Museum*, as outlined in the AAM’s document.

<http://www.aam-us.org/aboutmuseums/standards/upload/Characteristics-of-Excellence-reg-and-pe.pdf>

For clarification, the RFP language has been changed via addendum paragraph 2.

## Characteristics of Excellence for U.S. Museums

### 1. PUBLIC TRUST & ACCOUNTABILITY

- 1.1 The museum is a good steward of its resources held in the public trust.
- 1.2 The museum identifies the communities it serves, and makes appropriate decisions in how it serves them.
- 1.3 Regardless of its self-identified communities, the museum strives to be a good neighbor in its geographic area.
- 1.4 The museum strives to be inclusive and offers opportunities for diverse participation.
- 1.5 The museum asserts its public service role and places education at the center of that role.
- 1.6 The museum demonstrates a commitment to providing the public with physical and intellectual access to the museum and its resources.
- 1.7 The museum is committed to public accountability and is transparent in its mission and its operations.
- 1.8 The museum complies with local, state, and federal laws, codes, and regulations applicable to its facilities, operations, and administration.

### 2. MISSION & PLANNING

- 2.1 The museum has a clear understanding of its mission and communicates why it exists and who benefits as a result of its efforts.
- 2.2 All aspects of the museum's operations are integrated and focused on meeting its mission.
- 2.3 The museum's governing authority and staff think and act strategically to acquire, develop, and allocate resources to advance the mission of the museum.
- 2.4 The museum engages in ongoing and reflective institutional planning that includes involvement of its audiences and community.
- 2.5 The museum establishes measures of success and uses them to evaluate and adjust its activities.

### 3. LEADERSHIP & ORGANIZATIONAL STRUCTURE

- 3.1 The governance, staff, and volunteer structures and processes effectively advance the museum's mission.
- 3.2 The governing authority, staff, and volunteers have a clear and shared understanding of their roles and responsibilities.
- 3.3 The governing authority, staff, and volunteers legally, ethically, and effectively carry out their responsibilities.
- 3.4 The composition, qualifications, and diversity of the museum's leadership, staff, and volunteers enable it to carry out the museum's mission and goals.
- 3.5 There is a clear and formal division of responsibilities between the governing authority and any group that supports the museum, whether separately incorporated or operating within the museum or its parent organization.

### 4. COLLECTIONS STEWARDSHIP

- 4.1 The museum owns, exhibits, or uses collections that are appropriate to its mission.
- 4.2 The museum legally, ethically, and effectively manages, documents, cares for, and uses the collections.
- 4.3 The museum's collections-related research is conducted according to appropriate scholarly standards.
- 4.4 The museum strategically plans for the use and development of its collections.
- 4.5 Guided by its mission, the museum provides public access to its collections while ensuring their preservation.

### 5. EDUCATION & INTERPRETATION

- 5.1 The museum clearly states its overall educational goals, philosophy, and messages, and demonstrates that its activities are in alignment with them.
- 5.2 The museum understands the characteristics and needs of its existing and potential audiences and uses this understanding to inform its interpretation.
- 5.3 The museum's interpretive content is based on appropriate research.
- 5.4 Museums conducting primary research do so according to scholarly standards.
- 5.5 The museum uses techniques, technologies, and methods appropriate to its educational goals, content, audiences, and resources.
- 5.6 The museum presents accurate and appropriate content for each of its audiences.
- 5.7 The museum demonstrates consistent high quality in its interpretive activities.
- 5.8 The museum assesses the effectiveness of its interpretive activities and uses those results to plan and improve its activities.

### 6. FINANCIAL STABILITY

- 6.1 The museum legally, ethically, and responsibly acquires, manages, and allocates its financial resources in a way that advances its mission.
- 6.2 The museum operates in a fiscally responsible manner that promotes its long-term sustainability.

### 7. FACILITIES & RISK MANAGEMENT

- 7.1 The museum allocates its space and uses its facilities to meet the needs of the collections, audience, and staff.
- 7.2 The museum has appropriate measures to ensure the safety and security of people, its collections and/or objects, and the facilities it owns or uses.
- 7.3 The museum has an effective program for the care and long-term maintenance of its facilities.
- 7.4 The museum is clean and well-maintained, and provides for the visitors' needs.
- 7.5 The museum takes appropriate measures to protect itself against potential risk and loss.

**Proposer Suggestion #2**

*The Proposer suggests that the City provide a definition of “permanent” exhibit as it relates to Visitor Experiences. (page 1, 1.1) Permanent exhibits are a rarity in museums today and generally not considered modern or state-of-the-art; as such, the Proposer would like a clarification of what is intended by the use of the term “permanent”.*

**City Response #2**

The City recognizes the AAM definition of “permanent collections” to be: Those that are of intrinsic value to art, history, science, or culture and that support the mission of the museum and are held and curated by the museum. <http://www.aam-us.org/getinvolved/pr/upload/FULL.pdf>  
The RFP language will remain unchanged.

**Proposer Suggestion #3**

*The Proposer suggests that the City provide an explanation for the May 17, 2012 deadline for proposals as Proposer believes the length of the process inhibits private donors’ participation. (page 1, 1.4) Waiting four months for submissions by a prospective Tenant/Operator, as well as several additional months for the design builders’ submissions, would, in the Proposer’s estimation, negate the possibility of submitting a proposal using collections from private donors due to the length and uncertainty of the process, and be cause for prospective financial contributors to be reticent to support the long anticipated project.*

**City Response #3**

The City believes the deadline for Proposers’ submissions is appropriate considering the amount and depth of material required for a full and comprehensive evaluation of Proposers’ qualifications, concepts and proposals. In another suggestion a Proposer suggests the City eliminate a major section of the RFP related to the Proposers Operating Plan stating “... much of the requested information regarding the Operating Plan is premature, costly and time consuming to prepare...” which is evidence that the current deadline should not be abbreviated. The RFP language will remain unchanged.

**Proposer Suggestion #4**

*The Proposer suggests that the City address the contradiction in the RFP with regard to the expected square footage of the first phase of the project. Section 2.5 of the RFP describes the proposed museum to be 30,000 square feet, while Section 3.4.1 of the RFP refers to a building containing approximately 42,700 square feet. (page 5, 2.5 and page 9, 3.4.1) The ability for the City to design and build the museum within its budget is wholly dependent upon the intended square footage and design character of the edifice.*

**City Response #4**

The RFP makes reference to a roughly 30,000 square foot building, which is the approximate Net Sq. Ft. space requirements of the 42,700 Gross Sq. Ft. structure identified in the [2006 Feasibility Study](#). For clarification, the City is asking Proposers to identify deviations from the 42,700 Gross Sq. Ft. building; the clarification has been identified in the RFP by removing the 30,000 Sq. Ft. reference. The RFP language has been changed via addendum paragraph 3.

**Proposer Suggestion #5**

*The Proposer suggests that the City clarify what is meant by “in-reach and out-reach programming.” (page 7, 3.1.1.4.2) This information will give direction to the Proposer in its preparation of a Programming Plan.*

#### **City Response #5**

The Tenant is expected to create programming for use in schools as well as in the museum. As identified in the [2006 Feasibility Study](#), to guide the development of the program for the museum, a series of visitor-centered interpretive goals were established. The museum aims to provide educational programs for school children that relate directly to the K-12 education Standards of Arizona Department of Education and additional programs for all age groups as well as meet the needs of diverse audiences through active in-reach and out-reach programming. Proposers are encouraged to read the [2006 Feasibility Study](#) in its entirety; this specific information can be found in the Key Interpretive Goals section of the document. The RFP has been clarified to ask Proposers to indicate their minimum plans; the winning Proposal will provide information for lease clarification. The RFP language has been changed via addendum paragraph 4.

#### **Proposer Suggestion #6**

*In addition to certain specific suggestions set forth below, the Proposer wishes to make two preliminary observations regarding the proposed relationship between the City and the prospective tenant/operator ("Tenant/Operator") as it relates to several sections of the RFP.*

*First, the RFP indicates that the City will have full discretion and control over the design, construction and completion of the museum building with the Tenant/Operator's input limited to a "reasonable opportunity" during the course of Building design to "express Lessee's views as to the design of the Building." In addition to absolute control over design and construction, the RFP also grants the City the discretion to terminate the Project at any time during construction due to cost overruns. Given this level of discretion and the possibility that the City may not currently possess expertise in the design and construction of museum facilities, this Proposer feels that certain eligible and experienced Tenant/Operators may be unable or unwilling to participate in the RFP process due to uncertainty of whether a satisfactory building will be built and delivered to the Tenant/Operator. It is the concern of the Proposer that the Tenant/Operator cannot be held responsible for and be expected to pay for the build-out and improvements to a building where it has no meaningful control over the construction and costs.*

*As such, the Proposer suggests that the City revise the RFP to describe a formal participatory role for the Tenant/Operator wherein the City, as project manager, can benefit from the experience and expertise of the Tenant/Operator and its resources in the capital development project and in controlling the \$7.5 million construction budget. (page 8, 3.2)*

#### **City Response #6**

The language of the RFP allows, and the City intends to have Tenant participate in the design of the capital project; refer to lease Section 5.4 which identifies roles. The RFP language will remain unchanged.

#### **Proposer Suggestion #7**

*The Proposer suggests that the City clarify its role as designer and developer of the project, with greater clarity to be shown to what will be in the scope of the building construction that will be funded by the City's investment of \$7.5 Million and what beyond the City's capital budget to design and construct the museum is the Tenant/Operator responsible for its "completion." (page 8, 3.2.1) This information will assist the Proposer in the development of its budget, and will help determine whether the Proposer can assume costs beyond what it originally understood to be its obligation.*

**City Response #7**

The Proposer's design concept will guide the project's ultimate cost and the Tenant's required financial contribution to complete the project above the City's maximum of \$7.5 million; the City's Capital Project Management department, with appropriate coordination between other City departments, will manage the project with input from the Tenant. The cost of building design and construction depends to a large degree on the size and features of the museum building that Proposers propose. The City will only bear \$7.5 million of the total building design and construction cost; the Tenant will pay the rest. Refer to lease paragraph 5.4 which identifies roles. The RFP language will remain unchanged.

**Proposer Suggestion #8**

*The Proposer suggests that the City describe a formal, managerial role for the Tenant/Operator that allows the Proposer to provide specialized services and resources to assist in overseeing the capital development project and controlling the City's \$7.5 Million budget. (page 8, 3.2.1 and 3.2.2) This delineation of a prescribed role for the Tenant/Operator in connection with project management will demonstrate that the City intends to rely on the expertise of knowledgeable experts in the design and construction of museums, rather than attempt to manage this very specialized type of project itself. Additionally, this clarification of roles will establish the required qualifications for the Tenant/Operator applicants.*

**City Response #8**

Tenant will have an advisory role in the development of the capital project, but not a management role. The City will provide project management and will obtain specialized services as necessary. The RFP language will remain unchanged.

**Proposer Suggestion #9**

*The Proposer suggests that the City provide an annual minimum value of the letter of credit or other security that the Tenant/Operator is required to have as its shortfall reserve. (page 8, 3.2.4) This information will help determine the Proposer's ability to meet the financial obligations of the project.*

**City Response #9**

RFP Section 3.2.4. has been deleted, as the point is covered with other RFP requirements. The RFP language has been changed via addendum paragraph 5.

**Proposer Suggestion #10**

*The Proposer suggests that the City assume costs of maintenance of major capital improvements, including mechanical, electrical, etc., to the building which it owns consistent with standard practices of commercial landlords. (page 8, 3.2.5) The Proposer contends that if the relationship is to be a traditional landlord/tenant one (as suggested), it is customary for the landlord to assume responsibility for on-going major capital improvement costs.*

**City Response #10**

The City's desire is to limit its financial contribution to a one-time investment of \$7.5 million; any additional one-time or on-going expenses for maintenance, operations, capital improvements or any other expense is not desired by the City. The RFP language will remain unchanged.

**Proposer Suggestion #11**

*The Proposer suggests that the City disclose why the "Percent for Arts" is applicable to this unique project when it appears that the entire building is devoted to the mission of showcasing "public art" indoor and outdoor. (page 10, 3.7) As the institution will be wholly devoted to the arts, the Proposer*

*believes that the requirement for valuation of "public art" of 1% of the cost of the building is unnecessary and will again inhibit the likelihood of a not-for-profit applicant. Moreover, the obligation to make a tenant contribute to building costs is highly unusual, inconsistent with industry standards and appears to be a "fee" that only for-profit entities would be willing and able to make.*

**City Response #11**

[City code Sec. 20-123](#) requires the 1% expenditure referenced in this project. The RFP language will remain unchanged.

**Proposer Suggestion #12**

*The Proposer suggests the City clarify which provisions in the Lease are deemed "business terms" subject to modification. (page 15, 5.1, 7.3.2,7.3.3) The Proposer sees that the Lease already incorporates a substantial number of business terms, including the respective financial and operating obligations on each party; however, the only terms that appear to be subject to negotiation are the amount of rent and deposits and the value of the collections.*

**City Response #12**

The City has clarified which lease provisions are subject to modification based on the proposal submitted in response to the RFP. The RFP language has been changed via addendum paragraphs 9, 10, 11, 12, 13, 14, 15, 16 and 17.

**Proposer Suggestion #13**

*The Proposer suggests that the City incorporate the possibility of pledges as "proof" of funds available for startup and working capital. (page 20, 2.1.4) In the non-profit industry, pledges are traditionally considered "good as gold" and their schedule of payments are accounted for by reputable auditing firms.*

**City Response #13**

The City has provided clarification to this section of the RFP. Proposals will be required to provide evidence of financial capacity to perform the Tenant's obligation under the lease for the purposes of RFP evaluation. Regardless of such evidence, prior to design and construction the Tenant will be required to deposit cash, letters of credit or other commitment identified in the lease. The RFP language has been changed via addendum paragraph 18.

**Proposer Suggestion #14**

*The Proposer suggests that the City remove from the RFP the requirement of a schedule for all the capital improvements and replacements when the building has not been designed and the systems have yet to be identified. (page 21, 2.2.3) At this juncture, the content of such schedules would be purely speculative and unlikely to reflect the actual state of improvements ultimately put in place.*

**City Response #14**

The City is requesting the Proposer to provide a schedule for capital improvements and replacements based on the Proposer's building concept for the purposes of a comprehensive evaluation of the Proposal. The ultimate schedule for all capital improvements and replacements would not be finalized until the building is completely designed. The lease language has been changed via addendum paragraph 26.

**Proposer Suggestion #15**

*The Proposer suggests that the City disclose whether the Capital Contribution Plan is specific to the costs of the Interior Improvements only. (page 22, 2.2) This information is critical to the Proposer's development of its Capital budget.*

**City Response #15**

The City believes this suggestion is in reference to RFP Section 2.3 (not Section 2.2 as identified in the suggestion received by the City); the Capital Contribution Plan is for any funding that will be required to complete any portion of the project (including interior and exterior to the structure) that is in excess of the City's maximum contribution of \$7.5 million. The City expects the capital budget for the project to be in excess of the City's maximum contribution of \$7.5 million, requiring the Tenant to raise all additional funds required to complete the project. The RFP language will remain unchanged.

**Proposer Suggestion #16**

*The Proposer suggests that the City define what is considered the "Primary art collection as described by AAM standards." (page 23, 4.1.1) AAM does not categorize collections as "Primary."*

**City Response #16**

RFP Section 4.1.1 refers to the "Primary" collection which is inconsistent terminology with the Collection Requirements identified in lease paragraph 4.5 which refers to the "Core" collection. The RFP language has been changed to eliminate the confusion. The definition of "Core" collection is found in lease paragraph 4.5. The RFP language has been changed via addendum paragraph 19.

**Proposer Suggestion #17**

*The Proposer suggests that the City expand its description of "art" in the collections to include artifacts, media, photography, memorabilia, publications, etc. (page 23 and 24, 4.1.1 and 4.1.2) The Proposer believes this expanded definition is what is intended by the City.*

**City Response #17**

The City's definition of "art" includes collections as defined by the AAM. Collections: Objects, living or nonliving, that museums hold in trust for the public. Items usually are considered part of the museum's collections once they are accessioned. Some museums designated different categories of collections (permanent, research, educational) that functionally receive different types of care or use. These categories and their ramifications are established in the museum's collections management policy. Additionally, concerning accessioning: The creation of an immediate, brief, and permanent record utilizing a control number for an object or group of objects added to the collection from the same source at the same time, and for which the museum has custody, right, or title. Customarily, an accession record includes, among other data, the accession number; date and nature of acquisition (gift, excavation, expedition, purchase, bequest, etc.); source; brief identification and description; condition; provenance; value; and name of staff member recording the accession.

[http://www.aam-us.org/getinvolved/pr/upload/D16\\_Acc\\_CollectionsExpect.pdf](http://www.aam-us.org/getinvolved/pr/upload/D16_Acc_CollectionsExpect.pdf)

For clarification, the RFP language has been changed via addendum paragraph 20.

**Proposer Suggestion #18**

*The Proposer suggests that the City define what is considered the "Secondary art collection as described by AAM standards." (page 24, 4.1.2) AAM does not categorize collections as "Secondary."*

**City Response #18**

The definition of "Secondary" collection is found in Collection Requirements identified in lease paragraph 4.5. The RFP language will remain unchanged.



**Proposer Suggestion #19**

*The Proposer suggests that the City clarify what is meant in Programming as "...space allocation in terms of SF to art and programming." (page 25, 4.2.1) This information will give direction to the Proposer in its preparation of a Programming Plan.*

**City Response #19**

The City is asking Proposers to explain the amount of space square footages that will be used for the exhibition of art collections and other types of programming. This will EXCLUDE the amount of space square footages dedicated to non-programming uses including but not limited to offices, storage areas, prep areas, conference rooms, security equipment rooms, rest rooms, gift shop and vending/café areas. The City has replaced the word "art" with "collections" in RFP Section 4.2.1. For clarification, the RFP language has been changed via addendum paragraph 21.

**Proposer Suggestion #20**

*The Proposer suggests that the City provide an introduction to this section of the RFP which provides explanation for the need for this level of detail from the Proposer whose own governing board of directors is the sole entity assuming fiduciary responsibility and confidentiality for collection management, programming, marketing, volunteer services, membership, retail operations, facility and security management. (page 25-27, 4.4, 4.2, 4.3 4.4, 4.5, 4.6, 4.7 4.8) At this juncture, based upon the Proposer's experience, much of the requested information regarding the Operating Plan is premature, costly and time consuming to prepare, as well as possibly being proprietary information of the Tenant/Operator's governance. It seems to the Proposer that its qualifications for fulfillment of the published goals and responsibilities of the Tenant/Operator would be sufficient, knowing that City has undertaken its due diligence in selecting the particular Tenant/Operator.*

**City Response #20**

In order to evaluate any Proposal, the City must fully understand the Proposer's concepts which should demonstrate how the City's goals will be met for a project using public funds. An Operating Plan which reviews Art Collections and Procurement, Programming, Marketing, Volunteer Recruitment and Retention, Membership, Gift Shop, Facility Rental and Security plans is necessary for a comprehensive evaluation. Additionally, the City has established submission deadlines with consideration to the amount and depth of material required from Proposers. The RFP language will remain unchanged.

**Proposer Suggestion #21**

*The Proposer suggests that the City classify the potential revenue source of Facility Rental in a manner acceptable to the IRS, e.g., Private/Special Museum Use. (Page 26, 4.7) As a non-profit organization, a museum is not sanctioned by the IRS to account for Facility Rental as earned income and, therefore, the revenue must be taxed as unrelated business income.*

**City Response #21**

The City intends to comply with IRS regulations in all cases. The City is not making a recommendation to the Proposer regarding the filing of tax returns. The City is asking the Proposer to identify a revenue projection for business planning purposes. The Proposer is asked to identify the amount of revenue that is anticipated from facility use by others regardless of how the Proposer itemizes that revenue for IRS tax return reporting. The RFP language will remain unchanged.

**Proposer Suggestion #22**

*The Proposer requests that the City delete the requirement that the Proposer initiate a market analysis for museum visitation and a Tourism Room Night impact projection. (page 27, 5.1.1 and 5.1.2) The*



*Proposer believes that the City-sponsored studies referenced in the RFP that helped the City reach the decision to establish the museum through this RFP public process should be sufficient authority for the viability of such a project and duplicating these efforts is costly and unnecessary.*

**City Response #22**

The City is allowing Proposers to submit proposals that differ from the concept design identified in the 2006 Feasibility Study. Without maintaining all of the variables from the 2006 Feasibility Study, it is not possible to rely on the assumptions and projections of that Study. Therefore, it is necessary that each individual concept be studied and evaluated on its own merits. Variations from the 2006 Feasibility Study should be explained. The RFP language will remain unchanged.

**Proposer Suggestion #23**

*The Proposer suggests that the City revise the Lease to align with the requirements and guidelines of collection management as described by the American Association of Museums' Accreditation Program and makes changes accordingly to its Collection Requirements in the RFP. (page 10, 4.5) For instance, if the Proposer selected is a 501(c)(3) not-for-profit organization, it is the exclusive responsibility of the prospective governing body of the institution to maintain the intellectual integrity of, and the museum's control over all activities, including management of collections and exhibitions. As such, the Proposer suggests that the City refine its references to collections with the applicable terminology and qualifications set forth in the AAM standards. (page 10, 4.5.1 and page 11, 4.5.2 of Lease and page 23, 4.1.1 and page 24, 4.1.2 of RFP) If the City desires the museum to be accredited by the AAM, the RFP must be revised to be more consistent with AAM guidelines.*

**City Response #23**

The City believes the lease and RFP current language is consistent with AAM collection management guidelines. The Proposer has not suggested any specifics, therefore, the City is unable to determine the points in the documents that the Proposer believes to be in conflict with AAM guidelines. <http://www.aam-us.org/getinvolved/pr/upload/FULL.pdf>. The RFP and lease language have not been changed.

**Proposer Suggestion #24**

*The Proposer suggests that the City address the contradictions within its Lease and the RFP with regard to the required presentation of art and culture of certain periods in history. The Lease makes references to "Western Heritage" (1820-1920) while the RFP states, "The traditions of the West time period span is immense from Hohokam people ...to modernist painters, photographers, architects, and environmentalists – what was once frontier has been transformed into the New West." (Page 1, D and page 9, 4.2.4 of Lease and page 1, 1.1 of RFP) This information will provide the Proposer with greater appreciation of the City's intended vision and mission for the museum.*

**City Response #24**

The City has made the appropriate changes to the lease for consistency with the language in the RFP and 2006 Feasibility Study. The lease language has been changed via addendum Recital D.

**Proposer Suggestion #25**

*The Proposer suggests that the City's right to reconfigure the building and relocate the Premises in the Lease is conditioned on the prior written approval of the Tenant/Operator. (page 3, 1.5) As with the absolute control over design and constructions, the City's unfettered right to change the location and design of the building reduces the likelihood that an experienced museum operator will apply to the RFP.*

**City Response #25**

The Tenant's needs are taken into consideration as the Premises shall not be configured in a manner that prevents the Premises from being reasonably developed for museum use and if it

will occur, reconfiguration must occur prior to construction. The City intends to gain input from the Tenant in the design and construction phases of the project. The lease language will remain unchanged.

**Proposer Suggestion #26**

*The Proposer suggests that the City permit alternative arrangements for establishing financial capability in the Lease. (page 4, 3.1) Requiring the deposit of the entire construction budget with Lessor in advance is inconsistent with standard building practices and is likely to inhibit applications by private or not-for-profit applicants.*

**City Response #26**

The City is not requiring the deposit of the entire construction budget until after the design is complete and prior to the construction commencing; which is consistent with prudent pay-as-you-go practices in current economic times. The lease language will remain unchanged.

**Proposer Suggestion #27**

*The Proposer suggests that the City review AAM timing and requirements for applicants of new (start-up) museum operations, as the Proposer believes that AAM estimates that such an applicant for accreditation with AAM should expect to spend (up to) ten years to become accredited, although the RFP requires accreditation within five years of building opening. (Page 7, 3.1) The five-year accreditation obligation is inconsistent with the actual AAM timeline for accreditation.*

**City Response #27**

According to the American Association of Museum's *Quick Reference Guide to the Accreditation Review Process, The Initial Accreditation Review (for Applicant Museums)* document entitled *The Accreditation Process: Summary of Steps and Timing*, initial accreditation time is 2½ -3½ years (31-43 months.)

<http://www.aam-us.org/museumresources/accred/upload/Both%20QuickGuides&Flowcharts.pdf>

Therefore, the City's requirement for accreditation within 5 years of opening is reasonable; the lease has been clarified. The lease language has been changed via addendum paragraph 23.

## QUICK REFERENCE GUIDE TO THE ACCREDITATION REVIEW PROCESS

### *The Initial Accreditation Review (for Applicant Museums)*

	TIME * (months)	CUMULATIVE TIME (months)
<b>APPLICATION</b> <ul style="list-style-type: none"> <li>• Museum submits application.</li> <li>• Application reviewed at one of the predetermined application review periods during the year; upon confirmation of acceptance, the Self-Study Questionnaire, its assigned due date, and the application fee invoice are sent to museum.</li> </ul>	<b>1</b> <small>(from application deadline)</small>	<b>1</b>
<b>SELF-STUDY</b> <ul style="list-style-type: none"> <li>• Museum spends one year completing questionnaire and assembling supporting documents.</li> <li>• Museum submits all materials by assigned due date.</li> <li>• Accreditation Program staff confirms receipt and begins thorough review of materials for completeness and eligibility.</li> <li>• In <b>3-4 months</b>, museum receives review results in the form of the Self-Study Review Checklist.</li> <li>• Museum responds to any requests for clarification or information, and/or submits any missing documents.</li> </ul>	<b>15-16</b>	<b>16-17</b>
<b>INTERIM APPROVAL</b> <ul style="list-style-type: none"> <li>• When Self-Study is complete (all requests appropriately responded to), museum is placed on the next available Accreditation Commission meeting agenda.</li> <li>• Commission reviews Self-Study to determine if museum is ready to move to next step in the process.</li> <li>• Commission grants or denies interim approval, or votes to table its decision.</li> <li>• Museum notified of decision within one month.</li> </ul>	<b>3-4</b>	<b>19-21</b>
<b>SITE VISIT</b> <ul style="list-style-type: none"> <li>• Museum receives list of potential Visiting Committee members to approve; museum returns list within one month.</li> <li>• Accreditation Program staff makes request (more than one if necessary) to one of approved individuals to serve as the Visiting Committee Team Contact.</li> <li>• The confirmed Team Contact selects second team member; coordinates with museum and second team member to set visit date.</li> <li>• Museum prepares for site visit (scheduled several months in advance).</li> <li>• Visit occurs.</li> <li>• Visiting Committee writes and submits report.</li> <li>• Museum placed on next available Commission meeting agenda.</li> </ul>	<b>8-16</b>	<b>27-37</b>
<b>FINAL ACCREDITATION DECISION</b> <ul style="list-style-type: none"> <li>• Accreditation Commission reviews all Self-Study materials again, along with the Visiting Committee's report.</li> <li>• Commission grants or denies accreditation, or votes to table decision.</li> <li>• Museum receives decision letter and a copy of the Visiting Committee report. (Self-study materials are returned to museum separately)</li> <li>• If accreditation is granted, the next review date is stated in the decision letter (5-10 years).</li> </ul>	<b>4-6</b>	<b>31-43</b>

*The Accreditation Process: Summary of Steps and Timing*  
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7/05

**Proposer Suggestion #28**

*Similarly, the Proposer suggests that the City permit alternative arrangements for providing the security deposit, which may include granting security interests in particular items of personal property of the Tenant/Operator. (page 8, 3.13) Such alternative arrangements will allow for applicants with more limited liquid assets such as not-for-profit operators.*

**City Response #28**

The lease paragraph 3.13 requires "...a cash security deposit in the amount equal to Zero Dollars (\$0) to guarantee the faithful performance..."; therefore, the City does not see the need to offer an alternative arrangement. The lease language will remain unchanged.

**Proposer Suggestion #29**

*The Proposer suggests that the City withdraw its prohibition of selling artwork having a value of Two Hundred Dollars (\$200.00) or more within the museum. (page 9, 4.2.8) The Proposer anticipates that some of the art and related merchandise intended to be sold in the museum shop will have values exceeding Two Hundred Dollars (\$200.00), and, as well, certain special events and programs will have art for sale with values greater than the Two Hundred Dollars (\$200.00). It would be the intention of this Proposer to work with the local galleries and other downtown merchants to ensure they see what the museum offers in the sale of art is not in competition with their lines of business, and may actually help enhance their businesses. The relationship to be fostered by this Proposer between the museum and the businesses will be collaborative and supportive.*

**City Response #29**

The City intends to limit the type of activity on the property to maintain the use as a museum. The lease language will remain unchanged.

**Proposer Suggestion #30**

*The Proposer suggests that the City revise Section 4.2.8 of the Lease to allow for an undefined (or blank) number of sale events per year. (page 9, 4.2.8) The Proposer intends to include these kinds of revenue earning sources to sustain the museum's operation and believes that other prospective Tenant/Operators would as well.*

**City Response #30**

The City expects the gift shop to be ancillary to the museum and ensure the project maintain focus on the cultural and educational aspects of the museum. The lease language will remain unchanged.

**Proposer Suggestion #31**

*In addition to certain specific suggestions set forth below, the Proposer wishes to make two preliminary observations regarding the proposed relationship between the City and the prospective tenant/operator ("Tenant/Operator") as it relates to several sections of the RFP.*

...

*Second, with regard to the development of the construction, operation, outfitting, programming and capital contribution for a western art and history museum, the City makes a number of references to the standards and practices of the American Association of Museums ("AAM") -- the national professional organization cited frequently throughout the RFP -- designed to maintain high standards of custodial, legal and ethical integrity throughout the museum community, which is recommended and appreciated.*

*Unfortunately, the City's custodial role over the collections, as disclosed throughout the RFP, appears to violate those same standards and practices due to the lack of discretion and control afforded to the Tenant/Operator. Moreover, the apparent lack of discretion and control over the collections and/or operations of the museum would likely violate the federal statutory requirements for perpetuation of a 501(c)(3) non-profit organization, as well as inhibit private financial contributors, and, most importantly, private donors and collectors with important collections to possibly dedicate or loan to the institution, who are extremely unlikely to agree to a structure wherein a municipality, with its multifaceted public roles and responsibilities and limited experience in direct museum operations, retains control over critical operational and art-related functions.*

*As such, the Proposer suggests that, in recognition and understanding of standard practices defined by the AAM, as well as the anticipated expertise of the selected Tenant/Operator, the Proposer suggests that the governing board of the proposed Tenant/Operator be assigned the fiduciary responsibilities associated with the collection, preservation study, display and educational activities and programming for the institution. (Lease pages 10-11, 4.5)*

**City Response #31**

The museum is expected to be operated in accordance with AAM's *Characteristics of Excellence for U.S. Museums*, which includes Collections Stewardship, specifically (1) The museum owns, exhibits, or uses collections that are appropriate to its mission. (2) The museum legally, ethically, and effectively manages, documents, cares for, and uses the collections. (3) The museum's collections-related research is conducted according to appropriate scholarly standards. (4) The museum strategically plans for the use and development of its collections. (5) Guided by its mission, the museum provides public access to its collections while ensuring their preservation. <http://www.aam-us.org/aboutmuseums/standards/upload/Characteristics-of-Excellence-reg-and-pe.pdf> Therefore, the City believes the care of collections is appropriately identified. The lease language will remain unchanged.

**Proposer Suggestion #32**

*The Proposer suggests that the City eliminate its requirement that the Lessee is unable to remove artwork from the museum until the Lessor authorizes its movement. The Proposer suggests the City only enters into a lease with an entity that has gained the City's confidence, respect and trust that it will operate the institution with the highest of integrity in the fulfillment of the museum's mission. (page 11, 4.5.1.3 and 4.5.2.3) Excessive restrictions on the management of the museum will inhibit the ability of not-for-profit entities to apply to the RFP, and will likely be unacceptable to any experienced operator.*

**City Response #32**

The City expects the museum to be operated within AAM Standards for the first five years of operation and then be officially accredited and maintain that accreditation throughout the term of the lease. Additionally, concerning accessioning: The creation of an immediate, brief, and permanent record utilizing a control number for an object or group of objects added to the collection from the same source at the same time, and for which the museum has custody, right, or title. Customarily, an accession record includes, among other data, the accession number; date and nature of acquisition (gift, excavation, expedition, purchase, bequest, etc.); source; brief identification and description; condition; provenance; value; and name of staff member recording the accession. The City expects this information to be shared with the City as described in the paragraphs 4.5.1.3 and 4.5.2.3 of the lease. The lease language will remain unchanged.

**Proposer Suggestion #33**

*The Proposer suggests that the City withdraw its requirement that at all times the “Core” and “Secondary” collections must be physically stored at the Premises. (page 11, 4.5.3) Based upon the Proposer’s experience, it is exceedingly unlikely that this requirement would be acceptable to most private donors.*

**City Response #33**

For clarification, the on-site storage requirement is applicable only to the Core and Secondary collections. If private donors choose to loan a collection for exhibition, the Tenant may accept and display the collection without the on-site storage requirement by not including that collection in the Core or Secondary collections. The lease language will remain unchanged.

**Proposer Suggestion #34**

*The Proposer suggests that the days and hours of the museum’s operation be based on the marketplace, the season, the competition, the business acumen and experience of the Tenant/Operator, and not to require that the museum be open every day of the year or necessarily for the hours specified in the Lease. (page 12, 4.61, 4.62, 4.63) As above, excessive restrictions on the management of the museum will inhibit the ability of not-for-profit entities to apply to the RFP, and will likely be unacceptable to any experienced operator.*

**City Response #34**

One of the City’s goals is to maximize its return on investment with a museum catering to locals and visitors. Therefore, the City has identified hours of operation to meet the needs of a year-round tourist destination. The enclosed, air-conditioned amenity is a particularly important tourist draw in the off-season and the cultural offering is important year-round. The lease offers some flexibility to the Tenant in paragraph 4.6.5. The lease language will remain unchanged.

**Proposer Suggestion #35**

*The Proposer suggests that Section 4.17 of the Lease be deleted and replaced with an obligation of the Tenant/Operator to employ a museum management team with the following experience and qualifications: (a) minimum ten (10) years professional experience managing and directing museums, other educational institutions and/or public attractions; (b) direct experience with the conceptualization, design, development and opening of minimum three (3) new public facilities; (c) responsible for the conceptualization, design, and development of major Visitor Experiences (exhibits), media production, graphics package, and on-going public programs and special events; (d) responsible for the development of innovative ideas and initiatives for creating public awareness of the institution regionally, nationally and internationally; (e) responsible for authoring and executing successful Business Plans, including operating budgets, that ensured institutions’ solvency, sustainability, and annually increasing earned income to achieve responsible fiscal goals and practices; (f) extensive experience working closely in partnership with municipalities and/or other governmental agencies, and public and private educational institutions -- K-12, colleges and universities; (g) extensive experience in establishing successful, mutually beneficial partnerships with both non-profit and for-profit organizations; and (h) a proven ability to work in collaboration with others in quasi like-businesses in the community in the development of synergistic programming and marketing activities that help to increase awareness of, visitation to, and income for the varied public and private entities. (page 16, 4.17) While it is likely that the board requirement will be acceptable to this Proposer, it is believed that a description of the required minimum qualifications of the Tenant/Operator which includes experiences and resources of its administration and governance is a void deserving to be addressed in the Lease.*



**City Response #35**

The City expects the museum to be operated within AAM Standards for the first five years of operation and then be officially accredited and maintain that accreditation throughout the term of the lease. For clarification, this language has been added to the lease. The lease language has been changed via addendum paragraph 23.

According to the AAM's *Characteristics of Excellence for U.S. Museums*, Leadership and Organizational Structure is addressed: (1) The governance, staff, and volunteer structures and processes effectively advance the museum's mission. (2) The governing authority, staff, and volunteers have a clear and shared understanding of their roles and responsibilities. (3) The governing authority, staff, and volunteers legally, ethically, and effectively carry out their responsibilities. (4) The composition, qualifications, and diversity of the museum's leadership, staff, and volunteers enable it to carry out the museum's mission and goals. (5) There is a clear and formal division of responsibilities between the governing authority and any group that supports the museum, whether separately incorporated.

<http://www.aam-us.org/aboutmuseums/standards/upload/Characteristics-of-Excellence-reg-and-pe.pdf>

The City will review the staffing levels and qualifications of Proposers as identified in the RFP section 6.31 and Organizational Capability in the Proposal Contents Sections 1.1, 1.2, 1.3 and 1.4.

Additionally, the City will retain the right of a Board Member as defined in paragraph 4.17 of the lease. The lease language will remain unchanged.

**Proposer Suggestion #36**

*The Proposer requests clarification of what is expected to be placed on the exhibit relating to Section 4.18 and Exhibit G. The Proposer needs assistance understanding what Construction Items need to be protected.*

**City Response #36**

There was a typographical error in the lease Table of Exhibits. Lease Exhibit G has been corrected to refer to paragraph 4.18 of the lease (corrected from 4.19.) The lease language has been changed via addendum paragraph 29.

The City has provided clarification to lease paragraph 4.18 to reference the "Museum Building Security". Exhibit G will allow the Proposer to describe their security plan and how it will protect the building and its contents. The lease language has been changed via addendum paragraph 24.

**Proposer Suggestion #37**

*The Proposer suggests that the City engage representatives of the Lessee in a more active and decision-making role than described during the course of Lessor Construction Items design. (page 20, 5.4) The Proposer believes that its experiences and resources will help immeasurably in ensuring that the museum's Capital development will be achieved within the constraints of the City's budget of \$7.5 Million.*

**City Response #37**

The Tenant will have an advisory role in design of Lessor construction items, but not a decision-making role. The City will maintain management control of the design process. The lease language will remain unchanged.

**Proposer Suggestion #38**

*The Proposer suggests that the City modify Section 7.9 of the Lease to require the Tenant/Operator to comply if it is commercially reasonable. (page 29, 7.9) The Tenant/Operator's ability to mobilize earlier is dependant on numerous factors outside of the control of such Tenant/Operator including the availability of the chosen contractors, vendors and suppliers.*

**City Response #38**

The City expects to work closely with the Tenant and schedules should be adjusted on an ongoing basis therefore, the Tenant will be expected to adjust to the timing as necessary. The lease language will remain unchanged.

**Proposer Suggestion #39**

*The Proposer suggests that the City modify Section 7.10 of the Lease to list identified circumstances in which the City will deem itself insecure and able to terminate the Lease, which list will be limited to the declaration of bankruptcy or other objective indices of an entity's inability to pay its creditors. (page 29, 7.10) The unfettered right to terminate the agreement at any time that the City deems itself insecure is unlikely to be acceptable to this Proposer and possibly by other experienced operators, as well as detrimental to any donor applicant relationships.*

**City Response #39**

The museum is expected to be operated in accordance with AAM's *Characteristics of Excellence for U.S. Museums*, which includes Financial Stability. Specifically, (1) The museum legally, ethically, and responsibly acquires, manages, and allocates its financial resources in a way that advances its mission. (2) The museum operates in a fiscally responsible manner that promotes its long-term sustainability.

As a steward of public resources, the City must maintain the authority to terminate the lease for Tenant's lack of financial capacity.

<http://www.aam-us.org/aboutmuseums/standards/upload/Characteristics-of-Excellence-reg-and-pe.pdf>

The lease language will remain unchanged.

**Proposer Suggestion #40**

*The Proposer suggests that the City assumes responsibility for "Major Repair Work" of its building. (page 30, 8.4.2) The Proposer contends that it is traditionally the landlord's responsibility to assume "Major Repair Work" on its own building and the possible costs imposed on the applicant may be prohibitive for not-for-profit entities*

**City Response #40**

The City's desire is to limit its financial contribution to a one-time investment of \$7.5 million; any additional one-time or on-going expenses for maintenance, operations, capital improvements or any other expense is not desired by the City. The lease language will remain unchanged.

**Proposer Suggestion #41**

*The Proposer suggests that the City revise Section 11.6 of the Lease to require the City to maintain fire and extended coverage insurance on its building. (page 40, 11.6) This obligation is typically retained by a landlord to ensure the preservation of its asset. The Proposer is requesting a gross lease as opposed to a NNN lease since the Proposer is providing services not for its own profit but to benefit the City.*

**City Response #41**

The City's desire is to limit its financial contribution to a one-time investment of \$7.5 million; any additional one-time or on-going expenses for insurance, maintenance, operations, capital

improvements or any other expense is not desired by the City. The lease language will remain unchanged.